

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

March 16, 2004

IN RE:

APPLICATION OF INTEGRATED RESOURCE  
MANAGEMENT UTILITY, INC. FOR A CERTIFICATE  
OF PUBLIC CONVENIENCE AND NECESSITY  
TO PROVIDE WASTEWATER SYSTEMS SERVICES

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DOCKET NO.  
03-00467

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ORDER APPROVING APPLICATION FOR A CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY, TARIFF AND SPECIAL CONTRACT

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This matter came before Chairman Deborah Taylor Tate, Director Sara Kyle and Director Ron Jones of the Tennessee Regulatory Authority (“TRA” or “Authority”), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 10, 2003, to consider the *Application of Integrated Resource Management Utility, Inc. for a Certificate of Public Convenience and Necessity to Provide Wastewater System Service* (“*Application*”). In its *Application*, Integrated Resource Management Utility, Inc. (“IRM”) sought a Certificate of Public Convenience and Necessity (“CCN”) to provide sewer service to two (2) customers in Sevier County, Tennessee.

**Background**

On August 7, 2003, IRM filed its *Application* for a CCN to provide service to two (2) customers, Valley Mart Exxon and Cove Mountain Realty, located on Wears Valley Road in Sevier County, Tennessee. Maps showing the locations of these customers were attached to the *Application* (Exhibits B, C and D). Also included in the *Application* were a proposed Tariff

(Exhibit J) and a proposed sample agreement between IRM and its customers (Exhibit P). Because the proposed agreement contained provisions other than those included in the proposed tariff, the Authority considered the agreement as a special contract pursuant to Tenn. Comp. R. & Regs. 1220-4-1-.07.

### **Legal Standard for Granting CCN**

No public utility is permitted to begin construction or operation of a new utility facility or service before obtaining the approval of the TRA. The procedure for obtaining such approval is outlined in Tenn. Code Ann. § 65-4-201(a), which reads in pertinent part as follows:

No public utility shall establish or begin the construction of, or operate any line, plant, or system, or route in or into a municipality or other territory already receiving a like service from another public utility, or establish service therein, without first having obtained from the authority, after written application and hearing, a certificate that the present or future public convenience and necessity require or will require such construction, establishment, and operation, and no person or corporation not at the time a public utility shall commence the construction of any plant, line, system or route to be operated as a public utility, or the operation of which would constitute the same, or the owner or operator thereof, a public utility as defined by law, without having first obtained, in like manner, a similar certificate . . .

### **Application for CCN**

IRM has submitted financial statements, *pro forma* operating costs and biographical information for IRM management personnel in support of its *Application*. According to IRM, the system at Cove Mountain Realty has been installed, is operational and is permitted by the Division of Water Pollution Control of the Tennessee Department of Environment and Conservation. The proposed system at the Valley Mart Exxon will be an upgrade to the existing system at the direction and expense of the owner prior to IRM assuming ownership.

IRM contends that neither the City of Pigeon Forge nor Sevier County desire to provide wastewater services to Valley Mart Exxon and Cove Mountain Realty. In support of this

contention, IRM submitted a letter dated December 13, 2002 from Earlene M. Teaster, City Manager, stating that the City of Pigeon Forge had no immediate plans to extend sewer service to this area. IRM also submitted a January 17, 2003 letter from Ken L. Maples, Assistant County Executive, stating that Sevier County had no plans to provide sewer service to the area at that time. In addition, IRM states that no existing utility routes, plant, line or system will be affected by the proposed services.

### **Proposed Tariff and Special Contract**

IRM has proposed a tariff for commercial sewer rates, which was filed with the *Application* as Exhibit J. In addition, the owners of Valley Mart Exxon and Cove Mountain Realty have contracted with IRM to own, operate and maintain their systems contingent upon TRA approval. The proposed agreement contains some provisions, such as the fee amount for a returned check and security deposit requirements, which are inconsistent with the proposed tariff submitted with the *Application*. Because of these discrepancies, the Authority considered the agreement as a special contract pursuant to Tenn. Comp. R. & Regs. 1220-4-1-.07, which states:

Special contracts between public utilities and certain customers prescribing and providing rates, services and practices not covered by or permitted in the general tariffs, schedules or rules filed by such utilities are subject to supervision, regulation and control by the Authority. A copy of such special agreements shall be filed, subject to review and approval.

### **November 10, 2003 Authority Conference**


The Directors of the voting panel considered IRM's *Application*, together with the proposed tariff and the special contract, at the regularly scheduled Authority Conference held on November 10, 2003. During the Conference, the panel voted unanimously to approve the application, the tariff and the special contract.

**IT IS THEREFORE ORDERED THAT:**

1. The *Application of Integrated Resource Management Utility, Inc. for a Certificate of Public Convenience and Necessity to Provide Wastewater System Service* to Valley Road Exxon and Cove Mountain Realty in Sevier County, Tennessee, is hereby approved.
2. The tariff attached to the *Application* as Exhibit J is hereby approved.
3. The special contract by and between Valley Road Exxon and Integrated Resource Management Utility, Inc and the special contract by and between Cove Mountain Realty and Integrated Resource Management Utility, Inc. are approved.
4. Any party aggrieved by the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from the date of this Order.
5. Any party aggrieved by the Authority's decision in this matter has the right to judicial review by filing a Petition for Review in the Tennessee Court of Appeals, Middle Section, within sixty (60) days from the date of this Order.

  
Deborah Taylor Tate, Chairman

  
Sara Kyle, Director

  
Ron Jones, Director